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In re Application of	:	DECISION ON
Jorg Hinrich Fechner	:	
Application No.: 10/598,591	:	
PCT No.: PCT/EP04/10923	:	
Int. Filing Date: 30 September 2004	:	PETITION UNDER
Priority Date: 30 September 2003	:	
Attorney's Docket No.: SAW0034	:	
For: ANTIMICROBIAL GLASS SURFACES OF	:	
GLASS POWDERS	:	37 CFR 1.137(b)

This decision is in response to applicant's "Petition For Revival Of An International Application For Patent The U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)," filed on 05 September 2006. The petition fee of \$1500.00 under 37 CFR 1.17(m) has been charged to Deposit Account No.: 020385.

**BACKGROUND**

On 30 September 2004, this international application was filed, claiming an earliest priority date of 30 September 2003. A copy of the intentional application was transmitted on 14 April 2005 to the USPTO from the International Bureau.

The deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.495 was 30 May 2006. This international application became abandoned with respect to the United States at midnight on 30 May 2006 for failure to pay the required basic national fee.

On 05 September 2006, applicants filed in the United States Patent and Trademark Office (PTO) a transmittal letter for entry into the national stage in the U.S. under 35 U.S.C. 371, which was accompanied by, *inter alia*, the national basic fee, the instant petition under 37 CFR 1.137(b), and the petition fee.

**DISCUSSION**

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed; (2) the petition fee as set forth in § 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Petitioner has provided: (1) the proper reply by having submitted the basic national filing fee, and an English translation of the international application, (2) the petition fee set forth in §1.17(m), and (3) the proper statement under 137(b)(3). In this application, no terminal disclaimer is required.

Accordingly, the petition is deemed to satisfy requirements (1), (2), (3), and (4) under 37 CFR 1.137(b).


Applicant submitted a composite declaration on 01 December 2006 comprising of two sets of declarations since two separately executed signature pages have been submitted each signed by one inventor out of the two from that sheet. The composite declaration is defective because 37 CFR 1.497(a) and (b) requires that each declaration must be complete and identify each inventor. In this case only one set is complete because it comprises of 4 sheets of the declaration. The second set of the executed declaration is incomplete because it only contains two signature sheets and the first two sheets.

Furthermore, the declaration provided has an alteration on it because there are lines across the former post address and the new address of the third joint inventor Drapp next to the lines. Any alternation made after the signing of an oath or declaration must be supported by a supplemental oath or declaration under §1.67. Note 37 CFR §1.52.

### **DECISION**

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing.

  
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